

# **CUSTOMS BULLETIN AND DECISIONS**

**Weekly Compilation of  
Decisions, Rulings, Regulations, Notices, and Abstracts  
Concerning Customs and Related Matters of the  
U.S. Customs Service  
U.S. Court of Appeals for the Federal Circuit  
and  
U.S. Court of International Trade**

**VOL. 35**

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**NO. 37**

*This issue contains:*

U.S. Customs Service

T.D. 01-61

General Notice

Proposed Rulemaking

**DEPARTMENT OF THE TREASURY  
U.S. CUSTOMS SERVICE**

## NOTICE

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# U.S. Customs Service

## *Treasury Decision*

19 CFR Part 148

(T.D. 01-61)

RIN 1515-AC90

### CHANGE IN FLAT RATE OF DUTY ON ARTICLES IMPORTED FOR PERSONAL OR HOUSEHOLD USE OR AS BONA FIDE GIFTS

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect a provision of the Tariff Suspension and Trade Act of 2000 which sets forth a staged reduction of the flat rate of duty on articles imported for personal or household use or as bona fide gifts.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Ralph L. Hackney, Passenger Programs, Office of Field Operations; telephone (202) 927-2931.

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

Persons entering the United States with noncommercial importations of limited value, *i.e.*, articles for personal or household use or as bona fide gifts not imported for sale nor for the account of another person and valued in the aggregate at not over \$ 1,000 fair retail value in the country of acquisition, are assessed a flat rate of duty on the articles, provided the person claiming the tariff benefit(s) has not received such benefit(s) within the 30 days immediately preceding the present arrival. Depending on how and from where the articles are imported, the entry may be made under either or both subheadings 9816.00.20 and 9816.00.40 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

A particular flat rate of duty under HTSUS subheading 9816.00.20 is applicable to articles (exclusive of duty-free articles and articles ac-

quired in American Samoa, Guam or the Virgin Islands of the United States) that accompany a person arriving in the United States. A different particular flat rate of duty is applicable under HTSUS subheading 9816.00.40 to articles imported by or for the account of a person (whether or not accompanying the person) who arrives directly or indirectly from American Samoa, Guam or the Virgin Islands of the United States if the articles were acquired in those insular possessions as an incident of the person's physical presence.

While a person can use both subheadings for entering goods during one arrival in the United States, it is noted that the person may enter goods under HTSUS subheading 9816.00.40 only if the imported goods are acquired in the insular possessions as an incident of the traveler's physical presence there.

Prior to January 1, 2000, the flat rates of duty were 10 percent of the fair retail value for articles entered under HTSUS subheading 9816.00.20 and 5 percent of the fair retail value for articles entered under HTSUS subheading 9816.00.40.

On November 9, 2000, the President signed into law the Tariff Suspension and Trade Act of 2000 (Pub.L. 106-476, 114 Stat. 2101, 19 U.S.C. 1200 note). Section 1455 of this Act amended the tariff provisions at HTSUS subheadings 9816.00.20 and 9816.00.40 to provide for staged reductions of the flat-duty rates. Section 1455 amended HTSUS subheading 9816.00.20 to provide that effective January 1, 2000, the 10 percent flat-duty rate is reduced to 5 percent; that effective January 1, 2001, the 5 percent flat-duty rate is reduced to 4 percent; and that effective January 1, 2002, the 4 percent flat-duty rate is reduced to 3 percent. Section 1455 amended HTSUS subheading 9816.00.40 to provide that effective January 1, 2000, the 5 percent flat-duty rate is reduced to 3 percent; that effective January 1, 2001, the 3 percent flat-duty rate is reduced to 2 percent; and that effective January 1, 2002, the 2 percent flat-duty rate is reduced to 1.5 percent.

The flat rates of duty of HTSUS subheadings 9816.00.20 and 9816.00.40 are reflected and explained in §§ 148.101 and 148.102, Customs Regulations (19 CFR 148.101 and 148.102). These regulations now provide out-dated flat duty percentage rates. Accordingly, these regulations need to be revised to reflect these staged reductions of the flat-duty rates.

It is noted that these regulatory provisions pertain not only to the three insular possessions expressly provided for in the tariff provisions discussed above—American Samoa, Guam, and the Virgin Islands of the United States; they also pertain to the Commonwealth of the Northern Mariana Islands. This is because, pursuant to section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (Pub.L. 94-241, 90 Stat. 263, 270), goods imported from the Commonwealth of the Northern Mariana Islands are entitled to the same tariff treatment

as imports from Guam. See, § 7.2(a) of the Customs Regulations (19 CFR 7.2(a)).

In this document, Customs is revising §§ 148.101 and 148.102 to conform the Customs Regulations to section 1455 of the Tariff Suspension and Trade Act of 2000.

Section 148.102(a) is amended to provide that the rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

Section 148.102(b) is amended to provide that the rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

The parenthetical reference to Canada is removed from § 148.102(a); and § 148.102(c) is removed. These changes are made because the U.S.-Canada Free-Trade Agreement Implementation Act has been suspended. All originating goods from Canada are now duty-free pursuant to the North American Free Trade Agreement.

In addition, § 148.101 is amended by revising the two examples of the application of the flat rate of duty to reflect the staged reductions.

#### INAPPLICABILITY OF PUBLIC NOTICE AND COMMENT REQUIREMENT AND DELAYED EFFECTIVE DATE REQUIREMENT

Because this rule conforms the regulations to reflect new statutory requirements that confer a benefit in the form of lower duty rates, it has been determined, pursuant to 5 U.S.C. 553(b)(B), that notice and public procedure are unnecessary and contrary to the public interest. For the same reasons, a delayed effective date is not required, pursuant to 5 U.S.C. 553(d)(1) and (d)(3).

#### THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

#### LIST OF SUBJECTS FOR 19 CFR PART 148

Customs duties and inspection, Declarations, Reporting and record-keeping requirements, Trade agreements (North American Free Trade Agreement).

## AMENDMENTS TO THE REGULATIONS

For the reasons stated in the preamble, part 148 of the Customs Regulations (19 CFR part 148) is amended as set forth below:

## PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 22, Harmonized Tariff Schedule of the United States);

2. In § 148.101, the reference in the first sentence of Example 1 to "\$ 1,050" is removed and the reference "\$ 1,950" is added in its place; and the tables in Examples 1 and 2 are revised, respectively, to read as follows:

## § 148.101 Applicability.

Example 1: \* \* \*

	Fair retail value	Duty
(a) The \$ 400 personal exemption	\$ 400	
(b) Articles which carry a free rate of duty	\$ 100	
(c) The \$ 1,000 flat rate of duty allowance calculated at:	\$ 1,000	
4 percent (effective 01/01/01 through 12/31/01)		\$ 40
3 percent (effective from 01/01/02)		\$ 30
(d) Balance of articles subject to duty at rates other than flat rate	\$ 450 <sup>1</sup>	( <sup>1</sup> )
Total	\$ 1,950 <sup>1</sup>	( <sup>1</sup> )

<sup>1</sup> The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

*Example 2: \*\*\**

	<i>Fair retail value</i>	<i>Duty</i>
(a) The \$ 1,200 personal exemptions for residents returning from the U.S. Virgin Islands are grouped for a total of	\$ 2,400	
(b) Articles which carry a free rate of duty	\$ 100	
(c) The \$ 1,000 flat rate of duty allowance calculated at:	\$ 2,000	
2 percent (effective 01/01/01 through 12/31/01)		\$ 40
1.5 percent (effective from 01/01/02)		\$ 30
(d) Balance of articles subject to duty at rates other than flat rate	\$ 400 <sup>1</sup>	( <sup>1</sup> )
<b>Total</b>	<b>\$ 4,900<sup>1</sup></b>	<b>(<sup>1</sup>)</b>

3. Section 148.102 is revised to read as follows:

**§ 148.102 Flat rate of duty.**

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

CHARLES W. WINWOOD,  
*Acting Commissioner of Customs.*

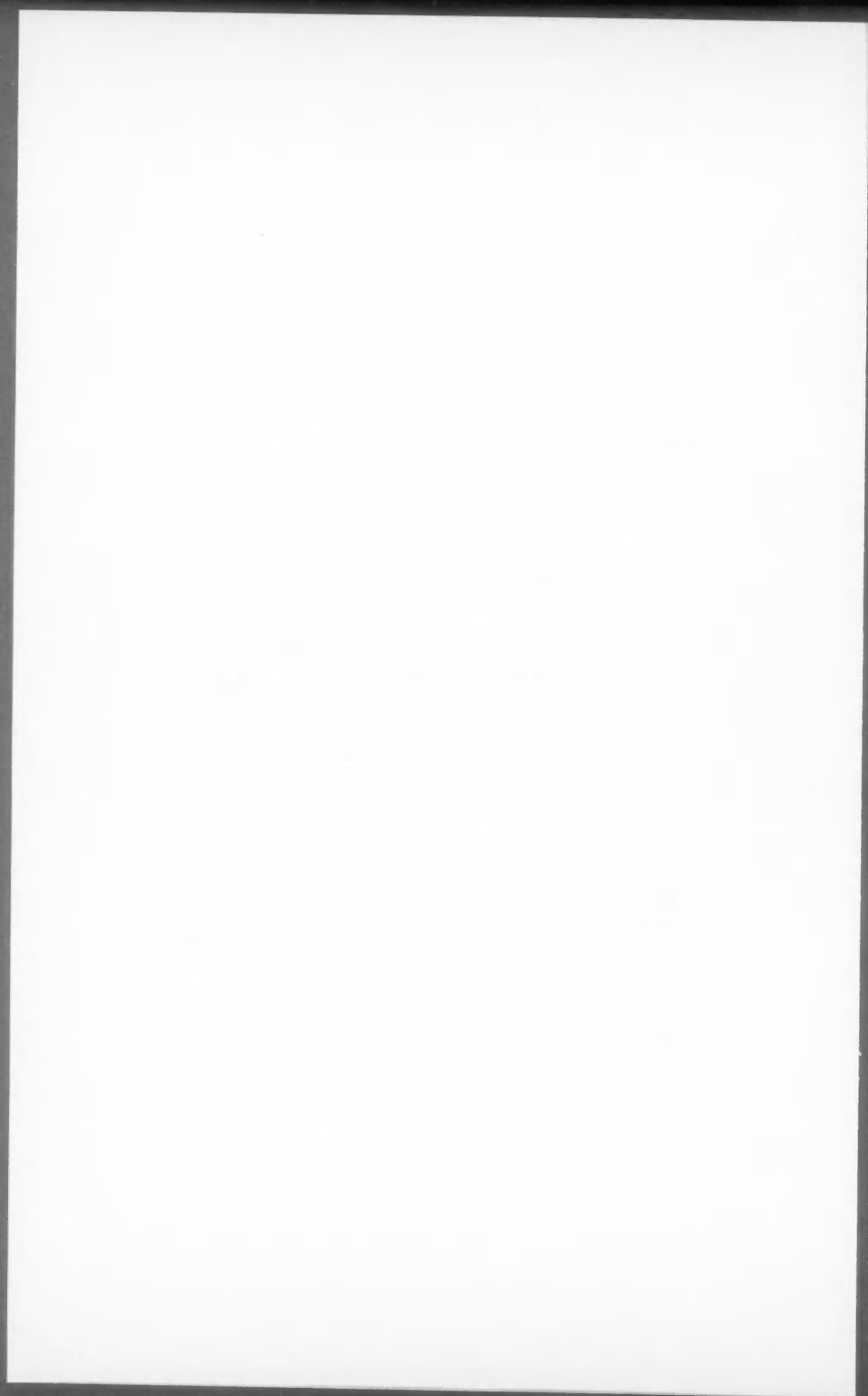
Approved: August 29, 2001.

TIMOTHY E. SKUD,

*Acting Deputy Assistant Secretary of the Treasury.*

[Published in the Federal Register, September 4, 2001 (66 FR 46217)]

<sup>1</sup> The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.





# U.S. Customs Service

## *General Notice*

### DATES AND DRAFT AGENDA OF THE TWENTY-FOURTH SESSION OF THE HARMONIZED SYSTEM REVIEW SUBCOMMITTEE OF THE WORLD CUSTOMS ORGANIZATION

AGENCIES: U.S. Customs Service (Department of the Treasury) and U.S. International Trade Commission.

ACTION: Publication of the dates and draft agenda for the twenty-fourth session of the Harmonized System Review Subcommittee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Harmonized System Review Subcommittee of the World Customs Organization.

DATE: August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Myles B. Harmon, Director, International Agreements Staff, Office of Regulations & Rulings, U.S. Customs Service (tel: 202-927-2255 & fax: 202-927-1873), or Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (tel: 202-205-2592 & fax: 202-205-2616).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System Convention). The Harmonized Commodity Description and Coding System (Harmonized System), an international nomenclature system, forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (HSC). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC's responsibilities include issuing classification

decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium.

In order to ensure that the Harmonized System continues to remain current, the Harmonized System Review Subcommittee ("RSC") was created as a subcommittee of the HSC. The RSC is responsible for periodically reviewing the Harmonized System and proposing amendments to the legal text that reflect changes in technology and in patterns of international trade. The RSC is composed of the same representatives as the HSC. As with the HSC, the RSC meets twice a year in Brussels, Belgium. The next session of the RSC will be the twenty-fourth, and it will be held from September 17 to 28, 2001.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418), the Department of the Treasury, represented by the U.S. Customs Service, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade Commission (ITC), jointly represent the U.S. government at the sessions of the HSC. The ITC representative serves as the head of the delegation at the sessions of the RSC.

Set forth below is the draft agenda for the next session of the RSC. Copies of available agenda-item documents may be obtained from either the Customs Service or the ITC. Comments on agenda items may be directed to the above-listed individuals.

Dated: August 28, 2001.

MYLES B. HARMON,  
*Director, International Agreements Staff,  
Office of Regulations and Rulings.*

[Attachment: Attachment A]

Attachment A

**DRAFT AGENDA FOR THE TWENTY-FOURTH SESSION OF THE  
HARMONIZED SYSTEM REVIEW SUB-COMMITTEE**

Monday, September 17 (10 am.) to Friday, September 28, 2001

**I.**

**ADOPTION OF THE AGENDA**

Draft Agenda ..... NR0167E1

**II.**

**GENERAL QUESTIONS**

- |  |          |
|--|----------|
| 1. Report on the meetings of the Policy Commission (45 <sup>th</sup> Session) and the Council (97 <sup>th</sup> and 98 <sup>th</sup> Sessions) ..... | NR0190E1 |
| 2. Decisions taken by the Harmonized System Committee at its 27 <sup>th</sup> Session affecting the work of the Review Sub-Committee .....           | NR0168E1 |

**III.**

**TECHNICAL QUESTIONS**

**A. FURTHER STUDIES**

- |  |  |
|--|--|
| 1. Possible amendments to the Nomenclature regarding the classification of saucers .....   | NR0169E1<br><b>NR0198E1</b>                  |
| 2. Proposal by Canada to amend the Nomenclature to Chapter 54 .....  | NR0170E1<br>NR0196E1                         |
| 3. Possible amendments to the Nomenclature and Explanatory Note to heading 84.42 .....   | NR0171E1                                     |
| 4. Possible amendments to the Explanatory Note to heading 84.71 .....  | NR0172E1                                     |
| 5. Possible amendments to the Nomenclature regarding the classification of cameras .....   | NR0173E1                                     |
| 6. Possible amendments to the Nomenclature and Explanatory Notes to Chapter 24 .....   | NR0174E1<br><b>NR0197E1</b>                  |
| 7. Possible amendments to the Nomenclature in order to update the terminology of certain products and to delete obsolete items ..... | NR0149E1<br>(RSC/23)<br>NR0175E1             |
| 8. Proposal by the US Administration to amend the Nomenclature concerning cut flowers of heading 06.03. ....                         | NR0153E1<br>(RSC/23)<br>NR0176E1             |
| 9. Proposal by the US Administration to amend the Nomenclature to Chapter 41 .....   | NR0155E1<br>(RSC/23)<br>NR0177E1             |
| 10. Proposal by the US Administration to amend the Nomenclature to heading 70.13 .....   | NR0156E1<br>(RSC/23)<br>NR0178E1<br>NR0191E1 |
| 11. Proposal by the US Administration to amend the Nomenclature to heading 84.82 .....   | NR0179E1                                     |
| 12. Proposal by the US Administration to amend the Nomenclature to heading 85.19 .....   | NR0158E1<br>(RSC/23)<br>NR0180E1             |

*TECHNICAL QUESTIONS—Continued**A. FURTHER STUDIES—Continued*

- |  |                                  |
|--|----------------------------------|
| 13. Proposal by the US Administration to amend certain subheadings of heading 87.08.....                                       | NR0159E1<br>(RSC/23)<br>NR0181E1 |
| 14. Study of possible amendments to the Nomenclature with regard to the classification of multifunctional digital copiers..... | NR0182E1                         |

*B. NEW QUESTIONS*

- |  |          |
|--|----------|
| 1. Possible amendment of heading 21.03 to include "salsa".....   | NR0183E1 |
| 2. Study of possible amendments to the Nomenclature with regard to human body parts.....   | NR0184E1 |
| 3. Possible amendment of heading 85.28 to provide separately for satellite television receivers (Proposal by the Egyptian Administration)..... | NR0185E1 |
| 4. Possible amendment of Chapter 39 to provide separately for hygienic articles of plastics (Proposal by the Egyptian Administration).....     | NR0186E1 |
| 5. Possible amendment of heading 21.06 to include "food supplements".....  | NR0187E1 |
| 6. Possible amendment of subheading 8311.90 to delete the reference to parts (Proposal by the Egyptian Administration).....                    | NR0189E1 |
| 7. Possible amendment of the HS Nomenclature and Explanatory Notes regarding silicones (Proposal by the US Administration).....                | NR0192E1 |
| 8. Proposal by the US Administration to delete Note 6 to Chapter 85....  | NR0193E1 |
| 9. Proposal by the US Administration to merge headings 95.01 to 95.03 into a single heading for toys.....                                      | NR0194E1 |
| 10. Editorial amendments to the English text of the Harmonized System..  | NR0195E1 |

*C. SPECIAL WORKING GROUP*

- |                                       |          |
|---------------------------------------|----------|
| 1. Study of Note 5 to Chapter 84..... | NR0188E1 |
|---------------------------------------|----------|

# U.S. Customs Service

## *Proposed Rulemaking*

19 CFR Part 177

RIN 1515-AC56

### ADMINISTRATIVE RULINGS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On July 17, 2001, Customs published in the Federal Register a notice of proposed rulemaking that set forth proposed amendments to those provisions of the Customs Regulations that concern the issuance of administrative rulings and related written determinations and decisions on prospective and current transactions arising under the Customs and related laws. This document extends for an additional 30 days the period of time within which interested members of the public may submit comments on the proposed amendments.

DATES: Comments on the proposed amendments must be received on or before October 17, 2001.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Elkins, Textiles Branch, Office of Regulations and Rulings (202-927-2380).

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

On July 17, 2001, Customs published in the Federal Register (66 FR 37370) a notice of proposed rulemaking that set forth proposed amendments to Part 177 of the Customs Regulations (19 CFR Part 177). Part 177 contains, among other things, general provisions regarding the issuance of binding administrative rulings and related written deter-

minations and decisions on prospective and current transactions arising under the Customs and related laws. The document solicited public comments on the proposed amendments and specified September 17, 2001, as the closing date for the submission of comments. On July 30, 2001, Customs published in the Federal Register (66 FR 39293) a correction document regarding the proposal.

Customs has received a letter from an international trade association requesting a 60-day extension of the public comment period. The letter explained that an extension was necessary because of the difficulty in collecting the views of the association's extensive membership during the summer vacation season regarding a matter that is of critical importance for the international trade community.

Customs believes that the request for a 60-day extension of the comment period must be balanced against the need to move forward with this important regulatory project. Accordingly, while Customs is sympathetic with the arguments made in support of an extension of the comment period, Customs believes that a 30-day extension would be more appropriate and would still afford sufficient additional time for the submission of comments by all interested parties. After the close of the extended comment period, Customs will review the comments submitted and will determine whether those comments raise issues that are of sufficient magnitude as to warrant reopening the comment period, publishing revised proposed amendments and/or instituting another appropriate public procedure prior to taking final action on this matter.

Accordingly, the public comment period is extended 30 days, to October 17, 2001.

Dated: August 22, 2001.

DOUGLAS M. BROWNING,  
*Acting Assistant Commissioner,  
Office of Regulations and Rulings.*

[Published in the Federal Register, August 28, 2001 (66 FR 45235)]

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